

This criminal revision under Section 397 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the judgment and order dated 5-8-1992 passed by the Additional Sessions Judge, Banswara (for short, "the Appellate Court" hereinafter) in Criminal Appeal No.57/1992, whereby the appeal filed by the petitioner against the judgment and order dated 29-1-1992 passed by the Chief Judicial Magistrate, Banswara (for short, "the trial Court" hereinafter) in Criminal Case No. 111/1984 was partly allowed and while maintaining the conviction of the petitioner for the offence under

Section 409 IPC, the substantive sentence of imprisonment was reduced from one year to six months rigorous imprisonment, however, the sentence of fine was maintained and in default of payment of fine to undergo 1 ½ months simple imprisonment. Aggrieved by the judgment and order impugned, the petitioner has filed the instant criminal revision.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Carefully gone through the judgments and orders of the Appellate Court as well as of the trial Court.

The petitioner was appointed as Patwari and for the period from 12-5-1978 to 5-7-1982, he was posted as the Patwari in the Patwar "Halka" (Circle) Nogama in tehsil Bagidaura. While working as the Patwari, the petitioner received a sum of Rs. 4584.83p. As land revenue from thirty-seven agriculturists. Though he gave receipts to the agriculturists of the said amount but did not deposit the same in the Government Treasury, nor made entries to this effect in the "Sihaya" and "Dhaal-Banch" registers and misappropriated the amount of Rs.4584.83 for his personal gain and as such, the petitioner, being a government servant and entrusted with the amount, was required to deposit the same with the government but he misappropriated the amount of Rs.4584.83 paise for his own gain.

Before the trial Court, the prosecution produced as many as 26 witnesses and the documents EX.P/1 to EX.P/35. From the statements of prosecution witnesses and the documents which were found to be written by the petitioner, the trial Court came to the conclusion that the petitioner, being a public servant, was entrusted with the amount as he received the amount from various agriculturists as land revenue but failed to deposit the same with the government and misappropriated the same during the period from 12-5-1978 to 5-7-1982 and as such the accused-petitioner committed the offence punishable under Section 409 IPC.

On an appeal, the Appellate Court, on re-appreciation of the evidence, came to the conclusion that the prosecution has proved the case beyond reasonable doubt against the petitioner for the offence under Section 409 IPC and accordingly, the Appellate Court affirmed the judgment and order of the trial Court convicting the petitioner, however, taking a lenient view, reduced the sentence of imprisonment from one year to six months rigorous imprisonment.

I have carefully gone through the record of the trial Court. The conclusions arrived at by both the Courts below holding the petitioner guilty for the offence under Section 409 IPC are well-founded on the evidence and, therefore, I do not find any error, illegality or perversity in the judgments and

orders of the courts below warranting interference in revisional jurisdiction.

The petitioner has been convicted in two other cases also for the similar nature of the offence, which shows that while posted as the Patwari in the area, the petitioner has committed criminal breach of trust being a public servant by retaining and using the amount collected from various agriculturists as land revenue. In this view of the matter, I do not find any error, illegality or perversity in the judgment and order impugned warranting interference in revisional jurisdiction.

Consequently, the criminal revision filed by the petitioner is hereby dismissed. The petitioner is on bail; his bail bonds are cancelled. Petitioner shall surrender before the trial Court to undergo the sentence.

(H.R. PANWAR), J.

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